

Thailand: Lese majeste “constitutional”

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AFP reports the unsurprising result of challenges to Article 112 - the lese majeste law - at the royalist Constitutional Court. Lawyers for Somyos Prueksakasemsuk and Akechai Hongkangwarn had challenged the constitutionality of the draconian law. They are reportedly the first ever to challenge the law in this way.

According to another report at *The Nation*, Somyos challenged sections 3, 29 and 45 of the 2007 Constitution. These are:

3. The sovereign power belongs to the Thai people. The King as Head of State shall exercise such power through the National Assembly, the Council of Ministers and the Courts in accordance with the provisions of this Constitution.

29. The restriction of such rights and liberties as recognised by the Constitution shall not be imposed on a person except by virtue of the law specifically enacted for the purpose determined by this Constitution and only to the extent of necessity and provided that it shall not affect the essential substances of such rights and liberties....

45. A person shall enjoy the liberty to express his opinion, make speech, write, print, publicise, and make expression by other means.

The restriction on liberty under paragraph one shall not be imposed except by virtue of the law specifically enacted for the purpose of maintaining the security of State, protecting the rights, liberties, dignity, reputation, family or privacy rights of other person, maintaining public order or good morals or preventing or halting the deterioration of the mind or health of the public.

The closure of a newspaper or other mass media business in deprivation of the liberty under this section shall not be made.

The prevention of a newspaper or other mass media from printing news or expressing their opinions, wholly or partly, or interference in any manner whatsoever in deprivation of the liberty under this section shall not be made except by the provisions of the law enacted in accordance with the provisions of paragraph two.

The censorship by a competent official of news or articles before their publication in a newspaper or other mass media shall not be made except during the time when the country is in a state of war; provided that it must be made by virtue of the law enacted under the provisions of paragraph two....

The performance of duties of the National Assembly, the Council of Ministers, the Courts, the Constitutional organisations and State agencies shall be in accordance with the rule of laws.

The *Bangkok Post* adds that section 8 was also invoked. It states:

8. The King shall be enthroned in a position of revered worship and shall not be violated. No person shall expose the King to any sort of accusation or action.

These reports note that the judges in Thailand's politicized Constitutional Court were unanimous in ruling that the law was constitutional. Apparently, the reasoning was, as is usual for this court, constitutionally thin. It was ruled that Article 112 "is aimed at keeping law and order and does not contradict with any article of the charter." Emphasizing this, another of the reports states: "The Constitution Court unanimously ruled that Article 112 is designed to protect the monarchy and lay down penalties for violators and to maintain law and order and morality." Finally, another states the court decided: "The constitution upholds and protects the institution of the monarchy which is part of Thailand's constitutional democracy..."

So much for sections 3 and 45 that grant rights and liberties for free expression!

As PPT has pointed out previously, this is a court that repeatedly delivers politicized and royalist "interpretations" of the constitution that trample on the rights of people that are granted in the military-designed 2007 Constitution. No other decision could have been expected from such a court, and we doubt that the judges spent much time even considering the issue. Lese majeste is, at least at the moment, the very basis of Thailand's legal system.

Update: Prachatai has posted the Constitutional Court's ruling. It is available in from the court's appropriately royalist website (a PDF).

Thai Political Prisoners website

P.S.

* <http://thaipoliticalprisoners.wordpress.com/2012/10/10/lese-majeste-constitutional/>